



## State Authority under FIFRA Section 24

- FIFRA Section **24(a)** allows a state to regulate pesticides **more restrictively** than EPA under the state's own authority
- If states wish to impose further restrictions on the dicamba products, they should do so under 24(a)
- FIFRA Section **24(c)** authorizes states to issue registrations for **additional uses** of federal registrations to meet special local needs (SLNs)

Recent evaluation of statutory requirements, EPA concluded state registrations that limit or restrict use of pesticides registered by EPA are beyond the scope of FIFRA Section 24(c), and that such registrations should be disapproved. (*excerpt from 24(c) webpage updated Nov 2020*)

20

- EPA guidance website on 24(c) registrations: <https://www.epa.gov/pesticide-registration/guidance-fifra-24c-registrations>

- The 2020 dicamba decision announced a policy change on EPA's interpretation of FIFRA. Previously EPA had allowed 24(c) to be used as a further restriction mechanism. States liked this because it was faster and easier than a 24(a) action.



## **Overview of FIFRA 24(c) Registrations**

- State Lead Agency (SLA) is the action agency for SLNs
- EPA has 90 days to formally disapprove
- Can only be used in the state issued
- Appropriate tolerances must be in place
- Growers may use the SLN label immediately
- Registrant supports the SLN with maintenance fees and necessary data
- EPA treats SLNs as equal to full registrations and are subject to Registration Review



## Special Local Need as Defined in the 40 CFR

40 CFR 162.151 states that a special local need means an existing or imminent pest problem within a State for which the State lead agency, based upon satisfactory supporting information, has determined that an appropriate federally registered pesticide product is not sufficiently available.



## Dicamba Section 24(c) Submissions: NC and TN

### *SLN No: 90-day Deadline:*

- North Carolina (NC20005: 3/15/21 & NC210001: 5/3/21)
  - Extend cotton date from July 30 to July 31
  - Extend soybean date from June 30 to July 31
  - First deadline for Bayer product; second deadline for BASF product
- Tennessee (TN210001: 4/11/21 & TN210002: 5/2/21)
  - Extend soybean cutoff date from June 30 to July 30 to match cotton
  - First deadline for Bayer product; second deadline for BASF product
- Each state has provided documentation stating benefits and low incident numbers for their state
- EPA will need a record to support no effect finding for ESA



## Pending Dicamba Section 24(c) Submissions: GA

### *SLN No: 90-day Deadline:*

- Georgia (GA210001: 4/27/21)
  - Eliminate soybean and cotton application cutoff dates
  - Require training biennially rather than annually
  - Reduce buffer distances for non-ESA counties to vacated 2018 levels
  - Reduce even further if using lay-by or hooded row-middle sprayers
- GA's proposal contains a less restrictive mitigation plan than that in the court-vacated 2018 dicamba federal registrations
- Unfeasible to maintain no effect finding for ESA

- SLN registrations for dicamba may inspire other state requests and/or have legal implications for the federal registrations, especially re. ESA (EPA needs to be able to maintain ESA no effect finding).
- Additional submissions expected from Mississippi & South Carolina



## Next Steps for Dicamba 24(c) Actions

- Review by EPA of 24(c) packages submitted
- Determine if no effect findings are possible
- Hold discussions with states with problematic findings
- Confirm EPA delegation chain for disapproving of actions
- Finalize EPA decisions as appropriate
  - Denials require at least 10 days notice be given to states
  - Aggressive timelines require rapid action

First deadline = NC's 90-day deadline of March 15, 2021